Kerala Gazette No. 10 dated 10th March 1959.

PART I

FINANCE DEPARTMENT

G.O.MS. No. 91|59|Fin. Amdt., Dated, Trivandrum, 25th February 1959.

AMENDMENT TO TRAVANCORE FINANCIAL AND ACCOUNT CODE

Volume II. Appendix 37.

Correction Slip No. 2|59

RULE 11-D

Add the following as a separate para to the existing Rule 11 D:—

"In the case of withdrawals for the construction of residential houses the following additional conditions will be fulfilled.

1. Before sanctioning the withdrawal, the administrative authorities should satisfy themselves that—

(a) the amount is actually required for the purpose of building, acquiring or redeeming a house;

(b) the Government servant possesses or intends to acquire forthwith the right to build on the site on which the house is proposed to be built;

(c) the amount withdrawn together with such other private savings, if any, as the Government servant may have, would be sufficient to build, acquire or redeem the house of the type proposed;

(d) the applicant has an approved plan and permits, where necessary, from the local authorities for the purpose of building materials to the extent required and at controlled rates;

(e) in the case of withdrawal for the purchase of a ready built house, the applicant secures an undisputed title to the house and the land on which the house is built before the purchase price is paid;

(f) before withdrawals are permitted for the repayment of loans taken from private parties expressly for the purpose of acquiring house, or for redeeming the house, the applicant has acquired or will acquire an unencumbered title to the house thus acquired;

(g) before sanctioning the withdrawal, the administrative authority should see that the applicant has signed an undertaking in the Form in Annexure I, indicating the main terms and conditions of the withdrawal sanctioned.

2. (a) Withdrawals will be permitted either for the purpose of building or acquiring a suitable house including the cost of site or for repayment of any outstanding amounts on account of loans expressly taken for the purpose aforesaid before the date of receipt of the application for withdrawal;

(b) withdrawal shall not exceed half the amount to the credit of the account or the actual cost of the house including cost of the site or repayment of the loan in that behalf, whichever is less. If the amount withdrawn exceeds the actual expenditure or repayment, the excess shall be refunded forthwith in lump together with interest thereon from the month of drawal, for recredit to the account;

(c) the house proposed to be acquired or redeemed should be situated at the place of his duty or his intended place of residence after retirement;

(d) withdrawals will be permitted for purchasing, building or redeeming only one house, and that at a place where the Government servant does not already own a house;

(e) the construction of the house should be commenced within six months of the withdrawal of money and should be completed within a period of one year from the date of commencement of construction. If however, the house is to be purchased or redeemed or a private loan previously raised for the purpose has to be repaid, this should be done within three months of the withdrawal;

(f) in the case of construction of a house, the withdrawal will be permitted only in equal instalments (not less than two and not more than four in number), the instalments after the first being authorised by the Administrative Authority after verification regarding progress of construction of the house;

(g) the Government servant shall submit an annual declaration in the form in Annexure II on or before 31st December, in each year and satisfy the sanctioning authority, if called upon to do so by the production of tax receipts, title deeds, etc., that the house remains in his sole ownership and that while he is still in service he has not parted with the possession thereof by way of transfer, sale, mortgage, gift, exchange, lease for a term exceeding three years or otherwise howsoever without the previous permission of the sanctioning authority in writing. The amount withdrawn shall be repayable forthwith in one instalment together with interest thereon at the rate provided in the State Provident Fund Rules, from the month of such withdrawal by the Government servant if the house is sold or encumbered at any time before retirement without such permission.

3. The Government servant should produce the necessary deeds and papers to the sanctioning authority proving his title to the property.

ANNEXURE I Mentioned in Rule 11 D

To

The Governor of Kerala.

In consideration of the Governor of Kerala (hereinafter referred to as "the Government of Kerala") having agreed at my request to permit, for the purpose of building or acquiring a suitable house including the cost of the site thereof, withdrawal of the sum of Rs............ (Rupees ....) only from the amount standing to my credit in the..................Fund Account No............ under the provisions of the Government of Kerala G.O. No. (P) 96|58|Fin. dated 16-4-1958, I hereby undertake to observe and perform the terms and conditions contained therein so far as they are applicable to me and, in particular to comply with the following terms and conditions, namely:—

1. that the amount for which the withdrawal is applied for shall be actually utilised for the purpose of building or acquiring a suitable house including the site thereof;

2. that if the amount permitted to be so withdrawn is in excess of the actual expenditure incurred by me for building or acquiring a suitable house including the cost of the site thereof, the excess amount together with interest thereon at the rate provided for in the State

Provident Fund Rules, shall be refunded to the Government for credit to my Provident Fund forthwith without demur in one lump sum whether the same shall have been demanded or not;

3. that the house proposed to be built or acquired by me with amount so withdrawn shall be situated at my place of duty or........ where I intend to reside after retirement;

4. that in the event of my building a house, the construction of the house shall be commenced within six months of the withdrawal of the aforesaid amount and shall be completed within a period of one year from the date of commencement of construction or within such further extended period as the Government may in their absolute discretion allow. In the event of a ready built house being purchased, any loan previously obtained by me for such purpose from private parties shall be repaid within three months of the drawal of such amount or such extended period as may be permitted by the Government;

5. that in the event of my building a house the right to build on the site on which the house is proposed to be built will be acquired by me forthwith;

6. that approved plans and permits, where necessary, from the local authorites for the purchase of building materials to the extent required shall be furnished by me;

7. that in the case of a drawal for the purchase of a ready built house I would secure an undisputed title to the house and the land on which the house is built before the purchase price is paid;

8. that so long as I am in service I shall submit every year a declaration in the form prescribed by the Government on or before 31st December, that the house so built or acquired continues to be in my sole ownership and possession;

9. that while in service the house so built or acquired shall not be transferred by me by way of sale, mortgage, exchange or gift or on lease for a term exceeding three years or otherwise howsoever without the previous permission of the sanctioning authority in writing.

I hereby declare that my private savings together with the amount permitted to be withdrawn will be sufficient to build or acquire the house of the type proposed and that I do not own any house other than the one which is intended to be built or acquired at the place of my duty or at................my intended place of residence after retirement. I further declare that if the house is not purchased or built in accordance with the provisions of the said G.O. or if I commit any breach of any of the afforesaid terms and conditions, I shall repay to the .... Fund for credit to my account the whole of the amount permitted to be withdrawn from the fund in pursuance of the said G.O. together with interest thereon at the rate provided for in para 2(g) thereof.

Dated this .... day of ....19....

Place..................

Signature...................

ANNEXURE II Mentioned in rule 11 D

Forms of Annual Declaration

To

The Governor of Kerala.

I hereby declare that the house built|acquired by me with the amount withdrawn by me from the amount standing to my credit in the.......... Fund Account No...................... under the provisions of the Government of Kerala G.O. No. (P) 96|58|Fin. dated 16-4-1958 has not been transferred by me by way of sale, mortgage, exchange or gift or on lease for a term exceeding three years or otherwise howsoever, and that if called upon to do so, I undertake to produce before the sanctioning authority tax receipts, title deeds and such other documents as may be specified by the said authority, showing that the house remains in my sole and absolute ownership.

Dated this .... day of .... 19....

Signature....................

Designation.................

Witnesses to signature
(with address)

1. ....

....

2. ....

....

(G.O. No. (P) 96|58|Fin. dated 16-4-1958)

AMENDMENT TO GENERAL PROVIDENT FUND RULES (COCHIN)

RULE 12A

Correction Slip No. 1|59

Add the following as a separate para to the existing Rule 12A:—

1. Before sanctioning the withdrawal, the administrative authorities should satisfy themselves that—

(a) the amount is actually required for the purpose of building, acquiring or redeeming a house;

(b) the Government servant possesses or intends to acquire forthwith the right to build on the site on which the house is proposed to be built;

(c) the amount withdrawn together with such other private savings, if any, as the Government servant may have, would be sufficient to build, acquire or redeeme the house of the type proposed;

(d) the applicant has an approved plan and permits, where necessary, from the local authorities for the purpose of building materials to the extent required and at controlled rates;

(e) in the case of withdrawal for the purchase of a ready built house, the applicant secures an undisputed title to the house and the land on which the house is built before the purchase price is paid;

(f) before withdrawals are permitted for the repayment of loans taken from private parties expressly for the purpose of acquiring house, or for redeeming the house, the applicant has acquired or will acquire an unencumbered title to the house thus acquired;

(g) before sanctioning the withdrawal, the administrative authority should see that the applicant has signed an undertaking in the Form in Annexure I, indicating the main terms and conditions of the withdrawal sanctioned.

2. (a) Withdrawals will be permitted either for the purpose of building or acquiring a suitable house including the cost of site or for repayment of any outstanding amounts on account of loans expressly taken for the purpose aforesaid before the date of receipt of the application for withdrawal;

(b) withdrawal shall not exceed half the amount to the credit of the account or the actual cost of the house including cost of the site or repayment of the loan in that behalf, whichever is less. If the amount withdrawn exceeds the actual expenditure or repayment, the excess shall be refunded forthwith in lump together with interest thereon from the month of drawal, for recredit to the account;

(c) the house proposed to be acquired or redeemed should be situated at the place of his duty or his intended place of residence after retirement;

(d) withdrawals will be permitted for purchasing, building or redeeming only one house, and that at a place where the Government servant does not already own a house;

(e) the construction of the house should be commenced within six months of the withdrawal of money and should be completed within a period of one year from the date of commencement of construction. If however, the house is to be purchased or redeemed or a private loan previously raised for the purpose has to be repaid, this should be done within three months of the withdrawal;

(f) in the case of construction of a house, the withdrawal will be permitted only in equal instalments (not less than two and not more than four in number), the instalments after the first being authorised by the Administrative Authority after verification regarding progress of construction of the house;

(g) the Government servant shall submit an annual declaration in the form in Annexure II on or before 31st December, in each year and satisfy the sanctioning authority, if called upon to do so by the production of tax receipts, title deeds, etc., that the house remains in his sole ownership and that while he is still in service he has not parted with the possession thereof by way of transfer, sale, mortgage, gift, exchange, lease for a term exceeding three years or otherwise howsoever without the previous permission of the sanctioning authority in writing. The amount withdrawn shall be repayable forthwith in one instalment together with interest thereon at the rate provided in the State Provident Fund Rules, from the month of such withdrawal by the Government servant if the house is sold or encumbered at any time before retirement without such permission.

3. The Government servant should produce the necessary deeds and papers to the sanctioning authority proving his title to the property.

ANNEXURE I Mentioned in Rule 12A

To

The Governor of Kerala.

In consideration of the Governor of Kerala (hereinafter referred to as "the Government of Kerala") having agreed at my request to permit, for the purpose of building or acquiring a suitable house including the cost of the site thereof, withdrawal of the sum of Rs........... (Rupees ....) only from the amount standing to my credit in the..................Fund Account No............ under the provisions of the Government of Kerala G.O. No. (P) 96|58|Fin. dated 16-4-1958, I hereby undertake to observe and perform the terms and conditions contained therein so far as they are applicable to me and, in particular to comply with the following terms and conditions, namely:—

1. that the amount for which the withdrawal is applied for shall be actually utilised for the purpose of building or acquiring a suitable house including the site thereof;

2. that if the amount permitted to be so withdrawn is in excess of the actual expenditure incurred by me for building or acquiring a suitable house including the cost of the site thereof, the excess amount together with interest thereon at the rate provided for in the State Provident Fund Rules, shall be refunded to the Government for credit to my Provident Fund forthwith without demur in one lump sum whether the same shall have been demanded or not;

3. that the house proposed to be built or acquired by me with amount so withdrawn shall be situated at my place of duty or.........., where I intend to reside after retirement;

4. that in the event of my building a house, the construction of the house shall be commenced within six months of the withdrawal of the aforesaid amount and shall be completed within a period of one year form the date of commencement of construction or within such further extended period as the Government may in their absolute discretion allow. In the event of a ready built house being purchased, any loan previously obtained by me for such purpose from private parties shall be repaid within three months of the drawal of such amount or such extended period as may be permitted by the Government;

5. that in the event of my building a house the right to build on the site on which the house is proposed to be built will be acquired by me forthwith;

6. that approved plans and permits, where necessary, from the local authorites for the purchase of building materials to the extent required shall be furnished by me;

7. that in the case of a drawal for the purchase of a ready built house I would secure an undisputed title to the house and the land on which the house is built before the purchase price is paid;

8. that so long as I am in service I shall submit every year a declaration in the form prescribed by the Government on or before 31st December, that the house so built or acquired continues to be in my sole ownership and possession;

9. that while in service the house so built or acquired shall not be transferred by me by way of sale, mortgage, exchange or gift or on lease for a term exceeding three years or otherwise howsoever without the previous permission of the sanctioning authority in writing.

I hereby declare that my private savings together with the amount permitted to be withdrawn will be sufficient to build or acquire the house of the type proposed and that I do not own any house other than the one which is intended to be built or acquired at the place of my duty or at................my intended place of residence after retirement. I further declare that if the house is not purchased or built in accordance with the provisions of the said G.O. or if I commit any breach of any of the afforesaid terms and conditions, I shall repay to the .... Fund for credit to my account the whole of the amount permitted to be withdrawn from the fund in pursuance of the said G.O. together with interest thereon at the rate provided for in para 2(g) thereof.

Dated this .... day of........................19....

Place.................. Signature..................

ANNEXURE II Mentioned in Rule 12A

Form of Annual Declaration

To

The Governor of Kerala.

I hereby declare that the house built|acquired by me with the amount withdrawn by me from the amount standing to my credit in the.......... Fund Account No...................... under the provisions of the Government of Kerala G.O. No. (P) 96|58|Fin. dated 16-4-1958 has not been transferred by me by way of sale, mortgage, exchange or gift or on lease for a term exceeding three years or otherwise howsoever, and that if called upon to do so, I undertake to produce before the sanctioning authority tax receipts, title deeds and such other documents as may be specified by the said authority, showing that the house remains in my sole and absolute ownership.

Dated this .... day of .... 19....

Signature....................

Designation.................

Witnesses to signature
(with address)

1. ....
....

2. ....
....

(G.O. No. (P) 96|58|Fin. dated 16-4-1958)

Labour and Local Administration Department

NOTIFICATION.

No. 5970/L5/59. *Dated, Trivandrum, 18th February 1959.*

In exercise of the powers conferred by Section 16 of the Workmen's Compensation Act, 1923, (Central Act VIII of 1923) and in supersession of all previous notifications on the subject, the Government of Kerala hereby direct that an Annual Return in the Form set forth in the Schedule hereto annexed shall be furnished by every person employing workmen who are—

(a) employed in a place which is a factory within the meaning of clause (m) of Section 2 of the Factories Act, 1948 (Central Act LXIII of 1948).

(b) employed in any of the following categories but not falling under any of the foregoing head (a).

(i) Otherwise than in a clerical capacity in the service of any Port conservancy within the limits of any port subject to the law for the time being in force relating to ports;

(ii) In the manufacture of handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed.

(iii) In the service of any fire brigade;

(iv) Otherwise than in a clerical capacity on any estate which is maintained for the purpose of growing coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty five or more persons have been so employed;

(v) Otherwise than in a clerical capacity in the generating transforming or supplying of electrical energy;

(vi) In producing cinematograph pictures intended for public exhibition or in exhibiting such pictures.

2. The return, which shall relate to a calendar year shall be furnished on or before the 1st March following the Calendar year to which the return relates and the first return shall relate to the year 1958.

3. The return shall be signed (a) by the employer, or where there are more than one employer by any employer, or (b) by any person directly responsible to the employer or employers for the management of the establishments to which it relates.

4. The returns shall be furnished for workmen of all categories in paragraph 1 to the Commissioner for Workmen's Compensation, Trivandrum.

5. The returns shall be furnished in duplicate.

6. Notwithstanding anything herein before contained, the aforesaid return is not required to be submitted by any employer in respect of compensation paid on account of injuries suffered by his workmen during any period for which his liability under the Workmen's Compensation Act 1923 (Central Act VIII of 1923) has been insured with a Mutual Indemnity or other Insurance company or during which he is a member of an association of employers which deals on behalf of its members with claims for compensation under the said Act if such company or Association has undertaken to submit returns as nearly as may be in the form set forth in the schedule hereto annexed in respect of the employers insured with such company or belonging to such Association. Such undertaking shall provide that the said returns shall be submitted not later than the 1st February or at the discretion of and subject to such conditions as the Government may impose, the 1st March following the financial year to which they relate.

SCHEDULE.

WORKMEN'S COMPENSATION.

Return relating to period from .. .. to 31st December 19

District .. ..
Town or Village .. ..
Post Office .. ..

Name of establishment

Name of work

Average numbers employed per day. Adults
Minors

Occupational diseases (8)

Accidents No. of cases of injuries (4) in respect of which final compensation has been paid during the year. (1)			Amount of compensation (5) paid. (2)				No. of cases of diseases (4) in respect of which final compensation has been paid during the year. (3)			Amount of compensation (5) paid. (4)		
Death	Permanent disablement	Temporary disablement	Death	Permanent disablement	Temporary disablement.	Nature of disease (9)	Death	Permanent disablement	Temporary disablement (6)	Death	Permanent disablement	Temporary disablement
				Rs.	Rs.	Rs.				Rs.	Rs.	Rs.

Dated 19....

Adults............
Minors............

(Signed)

(Designation)

(1) In cases where more establishments than one are owned by the same employer, a separate return should be furnished for each establishment. When in any establishment the workmen employed fall in two or more of the distinct categories to which the return relates e. g. in the case of a tea estate categories (a) and (b) (iv), a separate sheet should be used for the statistics of each category.

(2) Enter the class of establishment according to the process or product eg. cotton weaving and spinning factory.

(3) Include all employees whether permanent or temporary who would in the case of accidents, be eligible for compensation under the law for the time being in force relating to Workmen's Compensation and for whom a return is required to be furnished. Numbers employed should be shown even if there are no payments of compensation to report.

(4) Include only those cases in which the final payment of compensation was made during the year. A deposit with the Commissioner should be treated as a payment by the employer.

(5) Include all compensation paid in respect of the cases mentioned in foot-note 4 whether such compensation was paid during the year or previous to its commencement. Exclude all payments in cases in which the final payment had not been made by the end of the year to which the return relates.

(6) Only such disablements as last for more than seven days should be shown.

(7) Where the benefit actually allowed (e. g. hospital leave on full pay) is in excess of the compensation admissible under the law for the time being in force relating to Workmen's Compensation, only the amount of the compensation as admissible should be entered in the return.

(8) Viz. anthrax, lead poisoning, phosphorus poisoning, mercury poisoning, benzene poisoning, chroma-ulceration and compressed air illness only.

(9) Enter separately each of the disease specified in foot-note 8 which resulted in cases in respect of which compensation was paid.

By order of the Governor,

P. I. JACOB,

Secretary.

Kerala Gazette No. 10 dated 10th March 1959.

PART I

Labour and Local Administration Department

NOTIFICATION

No. 8836|L2|59-1|L&LAD.

Dated, Trivandrum, 14th February 1959.

The award of the Industrial Tribunal, Alleppey in respect of the dispute between the management of Messrs. Empire Coir Works (Private) Ltd., Alleppey and their workmen represented by (i) the Coir Labour Union, Alleppey and (ii) the Travancore Coir Factory Workers' Union, Alleppey received by Government on 9-2-1959 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

P. I. JACOB,
Secretary.

Before the Industrial Tribunal, Alleppey

Present:

SRI K. SHAHUL HAMEED

In

INDUSTRIAL DISPUTE No. 21 of 1958

Between

THE MANAGEMENT OF

MESSRS. EMPIRE COIR WORKS (PRIVATE) LTD., ALLEPPEY

and

THE WORKMEN OF

THE ABOVE CONCERN REPRESENTED BY (i) THE COIR LABOUR UNION, ALLEPPEY AND (ii) THE TRAVANCORE COIR FACTORY WORKERS' UNION, ALLEPPEY.

Representation:

For Management: Sri M. C. Varugis, Advocate, Alleppey.
For Coir Labour Union: Sri K. C. Eappen, General Secretary.
The Travancore Coir Factory Workers' Union, Alleppey: *Ex parte.*

AWARD

1. This is an industrial dispute between the management of Messrs. Empire Coir Works (Private) Ltd., Alleppey and their workmen represented by the Coir Labour Union, Alleppey and the Travancore Coir Factory Workers' Union Alleppey. It was referred for adjudication to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act 1947 (Central Act XIV of 1947) by Order No. 41897|L2|58-1 dated 14-7-1958 of the Labour and Local Administration Department of the Government of Kerala. The matter in dispute between the parties as mentioned in the annexure to the reference order was simply this:

"Reduction in the earnings of worker Sri Moideen Kunju."

2. Parties have entered appearance and filed their statements. The Coir Labour Union has filed their Claim Statement on 6-8-1958. The management submitted their counter on 22-8-1958. A replication was filed by the Coir Labour Union on 4-9-1958. On 31-8-1958 the Secretary of the Travancore Coir Factory Workers' Union filed a statement to the effect that as their Union did not represent the concerned contractor Sri Moideen Kunju they were not interested in the proceedings and that therefore they prayed that they might be deleted from the party array. Mr. M. C. Varugis raised a serious objection that their prayer could not be granted as the Tribunal had no jurisdiction to delete them from the party array but that if they so desired they might abstain from taking part in the proceedings. Accepting the contention of Mr. Varugis, I ruled that it is not within the province of this Tribunal to delete them from the party array but would proceed with the adjudication with all the parties on record. The Travancore Coir Factory Workers' Union did not take part in the further stages of the case with the result that I had to proceed with the adjudication in their absence. The Coir Labour Union has examined two witnesses and marked Exts. W1 to W7. The management have examined two witnesses on their side. They have not proved any document.

3. When evidence was thus being recorded, on 2-8-1958 the following memorandum of settlement signed by the parties in my presence was filed in Court.

Before the Industrial Tribunal, Alleppey

INDUSTRIAL DISPUTE No. 21 of 1958

Between

The Management of Messrs. The Empire Coir Works (Private) Ltd., Alleppey

and

1. The Coir Labour Union, Alleppey.
2. The Travancore Coir Factory Workers' Union, Alleppey.

Memorandum of Settlement effected between Messrs. The Empire Coir Works (Private) Ltd., Alleppey and the Coir Labour Union, Alleppey representing the Workmen.

1. It is agreed that the wage rates in the packing, vara, landing and loading section and the drying section includes the wages payable to the workers Sri Moideen Kunju for supervision and other works.

2. Sri Moideen Kunju will continue to get at the rate of 3|4th of an individual worker's wages in the packing, vara, landing and loading section, 1½ annas in the Rupee of the total wages payable in the drying section plus an equal share of the wages in the drying section.

3. The management agrees to pay the worker Sri Moideen Kunju a compensatory allowance of Rs. 22 50 nP. per month with effect from 1st January 1959 provided he is present for work for at least 8 days in a month.

4. The worker Sri Moideen Kunju will continue to discharge the duties that have been entrusted to him and the amenities granted to him by the management will also be continued.

5. An amount of Rs. 250 will be paid to the worker Sri Moideen Kunju in full and final settlement of all claims arising out of this dispute.

The Travancore Coir Factory Workers' Union have not taken part in the proceedings before the Court.

It is prayed that an award be passed accepting the above settlement.

Both parties suffer their costs.

(Sd.)
Governing Director,
For the Empire Coir Works (Private) Ltd.

(Sd.)
K. C. Eappen,
For the Coir Labour Union.

Alleppey,
2nd February, 1959.

4. The terms of the settlement are fair and reasonable. I am also satisfied that the compromise is bona fide. Therefore I accept the Memorandum of Settlement which will form part of the records in the case and I pass this award in terms thereof. The parties are to suffer their respective costs. The terms of the above settlement will take effect with effect from 2-2-1958 and this award will be enforceable thirty days after the date of its publication in the Government Gazette. The reference is answered accordingly.

Alleppey,
7-2-1959.

K. SHAHUL HAMEED,
Industrial Tribunal.

ANNEXURE

Witnesses for Coir Labour Union.

WW1 Sri Moideen Kunju.
WW2 ,, P. O. Abdukutty.

Exhibits for Coir Labour Union.

Ext. W1 Leave Book.
,, W2 Attendance Card.
,, W3 Attendance Card.
,, W4 Wages Book of the Packing Section from 22-12-1956 to 21-12-1957.
,, W5 Wages Book of the Company from 16-6-1951 to 25-10-1952.
,, W6 Wages Book of the mats drying section from 3-7-1954 to 4-5-1957.
,, W7 Packing Cooly Book during the year 1950 to 1951.

Witnesses for Management.

EW1 Sri A. Ramalingom.
EW2 ,, Parameswara Panicker.

Kerala Gazette No. 10 dated 10th March 1959.

PART I

Labour and Local Administration Department (Labour)

NOTIFICATION

No. 8835|L2|59-1|L&LAD.

Dated, Trivandrum 14th February 1959.

The award of the Industrial Tribunal, Alleppey in respect of the dispute between the management of Messrs. Aspinwall and Co., Ltd., Alleppey and their workmen represented by the Travancore Coir Factories Staff Association, Alleppey received by Government on 9-2-1959 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

P. I. JACOB,
Secretary.

Before the Industrial Tribunal, Alleppey

Present:

SRI K. SHAHUL HAMEED

In

INDUSTRIAL DISPUTE No. 29 of 1958

Between

THE MANAGEMENT OF

MESSRS. ASPINWALL & CO., LTD., ALLEPPEY

And

THE WORKERS OF

THE SAID CONCERN REPRESENTED BY THE GENERAL SECRETARY, TRAVANCORE COIR FACTORIES STAFF ASSOCIATION, ALLEPPEY.

Representation:

For Management: Advocate Mr. P. K. Kurian, B. Sc., Bar-at-Law of Messrs. Menon & Pai, Ernakulam.

For Staff Association: Sri K. C. Eappen, General Secretary.

For Regional Office, Employees' State Insurance Corporation, Trichur (Impleaded as an additional party with the consent of parties and leave of the Tribunal by Order dated 18-11-1958) represented by Sri M. V. Ramana Rao, Manager, Employees' State Insurance Corporation, Local Office, Alleppey.

AWARD

1. This is an industrial dispute between the management of Messrs. Aspinwall & Co., Ltd., Alleppey and the workers of the said concern represented by the General Secretary, Travancore Coir Factories Staff Association, Alleppey. It was referred for adjudication to this Tribunal under Section 10(2) of the Industrial Disputes Act 1947 (Central Act XIV of 1947) by Order No. 45419|L2|58-2 dated 11-9-1958 of the Labour and Local Administration Department of the Government of Kerala.

The points referred for adjudication as mentioned in the annexure to the reference order were as follows:—

(i) Whether the action of the management in crediting the cash benefits received from the Employees' State Insurance Corporation to the Company accounts after paying the employees concerned their full pay is justifiable or not?

(ii) To what reliefs are the employees entitled in either case?

2. Parties have entered appearance and filed their statements. The Claim Statement of the Staff Association was filed on 17-10-1958. The management submitted their counter on 24-10-1958. The Staff Association filed their replication on 31-10-1958. Both parties have filed their list of documents and schedule of witnesses. On 18-11-1958 Sri M. V. Ramana Rao, Manager, Local Office of Employees' State Insurance Corporation, Ministry of Labour and Employment (Government of India) Alleppey put in a petition stating that as they are interested in the interpretation of Regulation 97 of the Employees' State Insurance General Regulations 1950, which is relevant for a finding on the issue referred for adjudication, they prayed that they may be impleaded as an additional party in this adjudication so that their view of the matter may also be heard. Notice of this petition was given to both Mr. K. C. Eappen, General Secretary of the Staff Association and Mr. P. K. Kurian the learned Advocate appearing for the management. Both Mr. Eappen and Mr. Kurian stated in writing that they had no objection in allowing the petition. Hence the petition was allowed and the Regional Office Employees' State Insurance Corporation, Trichur was impleaded as an additional party by my order dated 18-11-1958. In the statement filed by the Employees' State Insurance Corporation on 2-12-1958 they had sated their case thus:.

(i) Under Regulation 97 deductions are permissible only from the leave salary for the period to which sickness benefit relates. The information as to the eligibility for and rate of benefit can be ascertained by the employer in time from the Local Office of the Corporation on Form E.S.I.C.-30.A prescribed for the purpose. It will of course be for the employer to work out the exact period for which benefit is admissible. Deduction of the amount of sickness benefit etc., from wages for a subsequent period is not permissible.

(ii) Employer's right to make deductions under Regulation 97 accrues in the event of insured persons becoming entitled to cash benefit under the Act, irrespective of the fact whether the insured person actually claims or receives such benefit from the corporation or not.

(iii) To become effective in law the provisions regarding deduction under Regulation 97 do not require to be confirmed by agreement between the employer and the employees, nor does it require any notice to be given by the employer to the employees. Regulation 97 creates a statutory right in favour of the employer to make deductions, if he so chooses and the employer can enforce this right in a Court of Law even if there is no agreement between the parties.

3. The Staff Association has examined one witness P. I. Issac and the management has examined Sri V. C. Thomas on their side. When evidence was thus being recorded the following memorandum of settlement signed by the parties in my presence was filed in Court on 2-2-1959.

Before the Industrial Tribunal, Alleppey

I. D. No. 29/1958.

In the matter of the industrial dispute between the management of Messrs. Aspinwall & Co., (Travancore) Ltd., and their staff represented by the Travancore Coir Factories Staff Association, Alleppey.

Joint Memorandum of Settlement filed by the Parties

1. The parties to the above have settled the same out of Court and it is submitted that there is no subsisting dispute between the parties in respect of the matter referred for adjudication.

2. The Hon'ble Tribunal may be pleased to accept the above and pass an award accordingly.

It is, therefore, prayed that the Hon'ble Tribunal may accept the terms in this joint memorandum of settlement and pass the necessary orders.

Dated this the 2nd day of January 1959.

for ASPINWALL & Co., (TRAVANCORE) LTD.,
(Sd.)
Manager.

P. K. Kurian, (Sd.)
Advocate,
Menon & Pai, Ernakulam.

K. C. Eappen, (Sd.)
General Secretary, Travancore Coir
Factories Staff Association.

4. I am satisfied that the compromise is genuine. Since the parties have compromised the issues out of Court, a finding on the interpretation of Regulation 97 as put forward by the Employees' State Insurance Corporation is not called for. In the result I accept the compromise and hold that no industrial dispute subsists between the parties. All parties will bear their respective costs. Awarded accordingly.

Alleppey,
7-2-1959.

K. SHAHUL HAMEED,
Industrial Tribunal.

ANNEXURE

Witness for the Staff Association:

WW1 Sri P. I. Issac.

Witness for the management:

EW1 Sri V. C. Thomas.

Labour and Local Administration Department

NOTIFICATION

No. 9548|L5|59-1 *Dated, Trivandrum, 17th February 1959.*

The award of the Industrial Tribunal, Kozhikode in respect of the dispute between the Management of Malabar Fisheries Co., Chaliyam. P. O., and their workmen represented by the Secretary, Malabar Fisheries Company Workers' Union, Chaliyam, received by Government on 12-2-1959 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

P. I. JACOB,
Secretary.

BEFORE THE COURT OF THE INDUSTRIAL TRIBUNAL, KOZHIKODE

(Wednesday, the Fourth day of February, Nineteen hundred and fifty-nine)

Present:

SHRI V. U. JOSEPH, B.A., B.L.,

Industrial Tribunal, Kozhikode

INDUSTRIAL DISPUTE No. 52|1958

Between

THE MANAGER

MALABAR FISHERIES COMPANY, CHALIYAM P.O.

And

THE SECRETARY

MALABAR FISHERIES COMPANY WORKERS' UNION
CHALIYAM

Representations:

Advocates—Sri George Kuriyan and Joseph Jacob—For Management.
Advocate—Sri V. Sivananda Rao—For Union.

AWARD

This dispute was referred to adjudication by Order No. 31665|L5|58-1 of the Labour and local Administration Department of the Government of Kerala dated 3-7-58. The following are the issues:—

(1) Is the non-employment of Sri A. Kunhappu proper? If so, and if not to what relief is he entitled?

(2) (a) Is the transfer of Shris A. P. Ramadasan, C. Arumukham and P. K. Velayudhan to the Polishing Department justifiable? If not, what should be the remedy?

(b) Are they entitled to wages for the period of unemployment on account of the transfer?

2. In the statement of the Union it is stated Shri A. Kunjappu was asked to leave the factory at about 4 p. m. on 19-7-1957. The following day when he reported for work he was told that he was dismissed from service and a dismissal order containing certain false charges was handed over to him. The charge as revealed from the dismissal order was that the worker concerned has been stealing the polishing materials and equipments of his co-workers. The worker sent a reply denying the charges and demanding reinstatement. The charges in the dismissal order were vague and completely false and the same was foisted against the worker at the instance of certain members of a rival union and interested parties who were his enemies. The dismissal was without interested parties who were his enemies. The dismissal was without the service of charge-sheet and enquiry. The worker had no opportunity to explain his conduct. The Union prays for the reinstatement of the worker with back wages and continuity of service. Of the three workers under issue No. 2, the Union did not press the case of Sri A. P. Ramadasan. The Union contends that Sri C. Arumkham is a permanent time-scale worker. He was on leave from 9-9-1957 to 16-9-1957 and when reported for work on 16-9-1957 he was informed that he will not be given work and that he is treated as on leave for one more week. The worker was asked to present for work after one week. He was not paid wages. Again from 23-9-1957 the management refused to give him work. From 9-10-1957 onwards he was forced to work on piece-rate basis in polishing department. Shri P. K. Velayudhan was engine driver on time-scale at the rate of Rs. 1-8-0 wages per day, besides 2 annas attendance allowance. He is a skilled worker. On 11-7-1957, he was asked to work in the polishing department on piece-rate basis. He complained to the management about this and was told in turn that he will not be given any work at all and was not given any work from 11-7-1957. Subsequently he was given piece-work in polishing from 6-2-1958. Polishing is new work and also difficult and arduous work. There is no guaranteed minimum in the polishing section. The transfer of these two workers to the polishing section on piece-rates has reduced their emoluments. The Union also contends that these workers were transferred for their membership and activities in the union. The union prays for an award granting the wages of these two workers when they were refused employment and also for their reversion to the original places on time scale.

3. In the reply statement of the management it is contended that there was a written complaint from Shri M. Ramadasan alleging that Sri Kunjappu had stolen his soap, brush and other working materials. He was asked to give his explanation and he had no explanation to give. Sri Ramadasan and Sri Velayudhan, the supervisors were interrogated in the presence of Sri Kunjappu as to the details of the charge. Their testimony proved that the charge was true and accordingly Sri A. Kunjappu was dismissed. The management maintains that their action was not in any way high-handed, arbitrary, illegal or unjustified. With regard to issue No. 2, the management states that they are engaged in the business of canning fish and for that purpose making tin containers. They are also making G. I. drums and stainless-steel articles and polishing the same. The business of canning fish can be carried on only during the season when fish is available. Making tin containers, G. I. drums and stainless-steel articles can be carried only to the extent

of the availability of tin plates and steel, which are controlled commodities. The workers have to be provided work in rotation from one section to another according to the availability of work. This is done without detriment to their earnings. There are only very few skilled jobs in the factory. It is further contended by the management that in view of the above considerations the workers' representatives agreed with the employers on 27-6-57 that the workers would be prepared to carry out any work allotted to them. According to the management Sri C. Arumukham was doing polishing work on piece-rate occasionally and from 28-10-57 he was put in the polishing section under the exigencies of the work obtaining in the management concern. It is maintained by the management that they had every right and authority to allot work to their workers in this manner. It is also submitted by the management that by doing polishing work on piece-rate, the workers have been earning more. The worker is not entitled to get wages for the days during which he did not work. As regards Sri P. K. Velayudhan it is submitted that he is not an engine driver. There has never been any worker who has been designated or doing the work solely as engine driver. Sri Velayudhan has been doing different jobs in the factory. He has not been engaged to do any particular skilled work. According to the availability of work he was allotted polishing work from 11-7-57 He refused to do the same and absented without leave. The District Labour Officer intervened and accordingly on 10-10-57 the worker resumed his work of polishing and is still carrying on that work. The management maintains that they have every right and authority to allot polishing working to the worker concerned in view of the exigencies of the business carried on by them. The workers refused to undertake the work allotted to them and were unreasonable and they are not entitled to get any wages for the period of their absence. The Union also filed a rejoinder controverting the allegations contained in the management reply statement.

4. The Union examined WW1 to WW4 and marked Exts. W1 to W23. The management examined MW1 to MW4 and marked Exts. M1 to M13.

5. Ext. M1 dated 19-7-57 is the dismissal order of Kunjappu. He was dismissed on the basis Ext. M3 a complaint from M. Ramadasan, dated 19-7-57. On receipt of the complaint Ext. M3 from M. Ramadasan, the Managing Proprietor send for Sri A. Kunjappu and he was interrogated in the presence of M. Ramadasan and Sri C. P. Velayudhan. The Managing Proprietor being convinced that the worker has committed theft dismissed him. The procedure adopted by the Managing Proprietor was not in conformity with the principles of natural justice. Before any worker is found guilty of misconduct, he has to be given a written charge-sheet affording sufficient opportunity to submit his written explanation. After the explanation if any, an impartial enquiry has to be held in which the delinquent has to be given full opportunity to cross-examine the management witnesses and adduce his own evidence if he so chooses. The enquiry by the domestic tribunal must be a written one. On the basis of the available evidence a finding either guilty or not has to be arrived at. Any deviation from this rule of natural justice is apt to provide weapons of victimisation in the hands of the employers. In the instant case, here no service of any charge-sheet nor the delinquent was given any opportunity to submit his explanation. The enquiry was oral. As the enquiry is oral, it cannot be known whether there were materials

to base the finding of guilty. There are no materials left to scrutinise the correctness of finding reached by the domestic Tribunal. In the instant case, the enquiry is vitiated on several grounds. I therefore set aside the findings of guilty against Sri A. Kunjappu. The entire evidence adduced before me has to be scrutinised and a fresh finding has to be arrived at on the materials before this court and appropriate order has to be passed taking all the circumstances into consideration.

6. Ext. M1 is the dismissal order containing the charge. The parties have understood their case well. In their respective pleadings they have elaborated the same. The Union has denied the charge of theft and contends that the same has been foisted against the worker at the instance of certain members of a rival union and interested parties who were his enemies. Ext. M3 is the complaint from a co-worker Sri M. Ramadasan alleging that Sri Kunjappu had stolen his soap, brush and other working materials. Before discussing the evidence regarding the dismissal of A. Kunjappu the nature of the work in the polishing section has to be explained. Polishing is done by a brush which is technically called 'mop'. Brush is used by machine. It is fitted to a spindle which mechanically rotates. The article to be polished is applied to the rotating mop. To the outer circumstance of the circular mop emery power is glued. The polishing soap is costly and imported from England. Only restricted quantities alone are obtained due to import restrictions. One soap cake can be made use of for polishing 30 lbs. of stainless steel articles. Additional cakes are given only when they exhaust the previous one. By using more soap the worker can produce more polished materials. This is the polishing in the first change. It is then dried in the sun and also in the drier. The soap is applied to another mop for further polishing at the final stage. Mop is stolen to save time. The workers are working on piece-rates. So, by using more soap, more polished articles are produced. The fresh the mop, the shorter the time required.

7. When Ramadasan returned after lunch interval his soap and mop were missing. He searched every-where and questioned all workers and also Kunjappu. Except, Kunjappu, all the workers showed their soap cake to Ramadasan. Ramadasan immediately reported the matter to C. P. Velayudhan, the polishing Supervisor. He got the soap cake from Kunjappu's box. Ramadasan had already made an identifying mark of two lines and a cross on his soap. So it was easily identified as Ramadasan's soap. On the brush, Ramadasan had written the initials of his name "M.R." That was also found under Kunjappu's box. The brush and the soap were taken from the box of Kunjappu by the Supervisor. Then the supervisor directed the workman concerned Ramadasan to give a written complaint to the Proprietor. It was sent to the Managing Proprietor, who is also examined in the case as MW1. He sent for Ramadasan, A. Kunjappu and Supervisor C. P. Velayudhan and also another worker Sreedharan by name, who is no more in the service of management concern. Ext. M3 is the complaint from Ramadasan. It is endorsed by the Supervisor C. P. Velayudhan. The articles which were stolen were discovered by the Supervisor on a written complaint, Ext. M3 by the worker. C. P. Velayudhan was examined as MW3. He has given detailed evidence regarding this incident and has corroborated the evidence of MW2 Ramadasan the complainant. The Managing Proprietor is MW1. Immediately after the presentation of Ext. M3 he made an oral enquiry. He was given evidence stating that immediately after the

occurrence the contents of Ext. M2 were read out to Sri A. Kunjappu in the presence of Ramadasan, C. P. Velayudhan and Sreedharan and Kunjappu's explanation was asked. Kunjappu did not say anything. The Managing Proprietor further asked Kunjappu whether he wanted to ask any question to Ramadasan and Velayudhan. Kunjappu did not put any question to either of them. The proprietor has also said that on questioning Ramadasan, he explained how he was able to identify the stolen soap. He had made his own marking in the soap, and brush which were stolen. According to the proprietor it is this marking of the soap and brush which influenced him to find Kunjappu guilty. So taking the evidence of MW1, 2, and 3 I have no hesitation in coming to the conclusion that Kunjappu had committed theft of soap and brush. The Union case that this charge of theft is foisted against Kunjappu at the instance of certain members of the rival union and interested parties who were his enemies is not correct. In the statement of the Union there is no mention of the names of the members of rival union and enemies. The Union has not made out any special enemity for Ramadasan against Kunjappu except the fact that they are members of the A.I.T.U.C. and I.N.T.U.C. affiliated Labour Unions. Practically all the workers are members of one or other unions. The articles were discovered by C. P. Velayudhan the polishing supervisor who is not a member of any union. The Managing Proprietor, MW1 is not the member of any union. No circumstance is suggested by the union for the motive of management to pick out A. Kunjappu for bringing a false case against him. On previous occasions also there were charges against him and this is proved by MW4, the Manager. On 3-11-56 there was a complaint from Arumukhan against A. Kunjappu alleging that his soap was stolen by him. MW4 enquired into the matter and A. Kunjappu was fined Rs. 2-8-0 and has been warned very seriously. The payment of fine is evidenced on page 16 of the Ledger marked as Ext. M8A. Ext. M2 dated 17-7-57 is another complaint of theft against the same worker by T. C. Sreedharan. So taking the past conduct of the worker and also the gravity of the misconduct proved in this proceeding the worker has to be dismissed and I hereby order his dismissal. He is not entitled to other relief.

8. Of the matters arising under Issue No. 2 the case of A. P. Ramadasan is not pressed by the Union. In the management factory the main work is the manufacture of cans for canning fish and other cans for commercial sale. The cans are made out of tin plates. They are also making G. I. drums, stainless steel articles. These are made out of tin plates which is allotted by the Central Government on quota system. About 1,200 tons of tin plates are required to meet the installed capacity in one year, of which the management is only getting 50 tons. G.I. drums and stainless steel are made out of G. I. sheets and stainless steel sheets respectively. These are also controlled materials. Due to the non-availability of these materials there is shortage of work and there are no well-defined sections. The Management according to them are unable to give particular work to any worker throughout the year. The workers have to work in different sections according to availability of work. The complaint of Arumukham is that he must be given time work. He started work in the management concern on 24-9-1955 as an apprentice for polishing work on time rate at 8 as. per day. Then after working for some time he was absent without leave. Finally on the

recommendation of the District Labour Officer he was given general work again on time-rate. So, from the beginning of his service on 24-9-1955 all these years he has been working in polishing department either on time-rate or on piece-rate. By working in the polishing section there is no reduction in his emoluments. According to him he was getting daily one rupee from the workshop on time rate scale. He admits in the cross-examination that he is getting Rs. 5, 6, and 7 in a week. According to him there are people getting Rs. 2 per day, by piece-rate work in the polishing section. So if he exerts properly there will be no reduction in his emoluments, rather there is prospect of getting more by piece-rate work in polishing.

9. The contention of Sri P. K. Velayudhan is that he is an engine driver on time scale at the rate of Rs. 1-8-0 per day. There is no such guaranteed minimum in the polishing section and his complaint is that he has to be reverted as an engine driver on time rate of Rs. 1-8-0 per day. The management's case is that Velayudhan was not an engine driver. He was only a general worker. It is the foreman who is in charge of the engine. In the muster rolls marked as Exts. M11, M12, M13 he is simply designated as a worker in the machine shop along with similar workers in that section. It is also the case of the Management that no particular man need be appointed as an engine driver. The machine has to be started in the morning at the commencement of the work and to be stopped at Lunch Interval. Likewise in the afternoon also. The machines according to the Management are in the charge of the foreman. I think the version given by the Management is correct. By working in the polishing on piece-rate Sri Velayudhan is not a looser. It is admitted by him that for the week ending 15-2-1958 he got Rs. 12.94. This is for 6 days and works out more than Rs. 2 per day on an average. The worker does not suffer any reduction in his emoluments. In the peculiar circumstances existing in the management concern it is not possible to allot particular work to particular workers. This was also accepted by the workmen in the memorandum of settlement marked as Ext. M6. In clause 8 in Ext. M6 it is stated that the workers are prepared to work in all departments as the Management desires. Of course if the workers refuse to work on piece-rates in polishing when no work is available in other sections, they have to suffer the consequence. Worker Arumugham was without work for 23 days and P. K. Velayudhan was without work for 4 months and 25 days. The workmen concerned might have refused to work as they were under a wrong impression about their rights. There was no such dispute regarding this point previously. In the peculiar circumstances I award 50% of the wages for the days of their unemployment as a special case. This will not be taken as a precedent.

10. A. Kunjappu is guilty of theft and he is ordered to be dismissed. The case of A. P. Ramadasan does not arise for consideration as the same is not pressed by the Union. C. Arumughom and Velayudhan will be given time work whenever such work is available. They will be given 50% of the wages for their period of unemployment as a special case. They were unemployed for 23 days and 4 months and 25 days respectively. I pass the award as indicated above and the same shall become enforceable after 30 days of its publication in the Government Gazette.

Calicut,
4-2-1959.

V. U. JOSEPH,
Industrial Tribunal.

APPENDIX.

Exhibits marked on the side of the Management.

Ext.	M 1	Letter dated 19-7-57 addressed to Sri A. Kunjappu by the Management.
,,	M 2	Letter dated 17-7-57 addressed to the Management by Sri Sreedharan.
,,	M 3	Complaint written by Sri Ramadasan dated 19-7-57.
,,	M 4	Local delivery book of the Malabar Fisheries Co.
,,	M4A	Signature of Sri A. Kunjappu for receipt of dismissal order.
,,	M 5	Letter dated 3-8-57 addressed to Sri A. Kunjappu by the Management.
,,	M5A	Certificate-posting receipt dated 3-8-57.
,,	M 6	Memorandum dated 27-6-57 signed by the Proprietor of the Co. and Sri Manjunatha Rao on behalf of workmen.
,,	M 7	Petition dated 3-11-56 addressed to the Management by Sri Arumugham.
,,	M 8	Cash Ledger of the company for the year 1956-57.
,,	M8A	Page 116 of the ledger regarding the recovery of fine from Sri Kunjappu.
,,	M 9	Extract from the Muster Roll of Sri Arumugham T. No. 73 from week ending 24-9-55 to 29-11-58.
,,	M10	Extract from the Muster Roll of Sri P. K. Velayudhan from 6-4-57 to 29-11-58.
,,	M11	Muster Roll of the Company for the year 1955.
,,	M12	do. 1956
,,	M13	do. 1957.

Exhibits marked on the side of the Union.

Ext.	W 1	Copy of letter dated 15-7-57 addressed to the Management by the Union.
,,	W 2	Copy of the resolution passed at the working committee of the Union on 21-7-57 addressed to the Management dated 22-7-57.
,,	W 3	Copy of letter dated 27-7-57 addressed to the Management by Union.
,,	W 4	Copy of the petition dated 17-7-57 written by Sri P. K. Velayudhan to the Proprietor of the company.
,,	W 5	Copy of the resolution passed on 9-9-57 at the General body meeting of the Union addressed to the District Labour Officer, Kozhikode on 10-9-57.
,,	W 6	Copy of letter dated 10-12-57 by the Union addressed to the Labour Officer.
,,	W 7	Copy of the resolution passed at the General Body meeting of the Union on 18-3-58 addressed to the Secretary, Labour Department, Trivandrum, dated 19-3-58.
,,	W 8	Copy of letter dated 10-5-58 addressed to the Honourable Labour Minister by the Union.
,,	W 9	Copy of the letter dated 10-5-58 addressed to the Labour Commissioner by the Union.
,,	W10	Copy of letter dated 22-7-57 addressed to the Management by Sri Kunjappu.
,,	W11	Copy of the letter dated 29-7-57 addressed to the Management by Sri A. Kunjappu.

Ext. W12 Copy of letter dated 17-7-57 addressed to Proprietor of the Co. by Sri P. K. Velayudhan.

„ W13 Copy of letter dated 22-7-57 addressed to Proprietor of the Co. by Sri P. K. Velayudhan.

„ W14 Copy of letter dated 30-7-57 addressed to the Management of the Co. by Sri P. K. Velayudhan.

„ W15 Copy of letter dated 2-10-57 addressed to the Manager by Sri C. Arumugham.

„ W16 Copy of resolution passed at the General Body meeting of the Union on 21-7-57 addressed to the Management.

„ W17 Copy of the conciliation report of the District Labour Officer, Kozhikode No. 1506|57 dated 5-2-58 sent to the Secretary, Labour Department, Trivandrum.

„ W18 Copy of letter dated 23-7-57 addressed to the Management by Sri C. Arumugham.

„ W19 Copy of letter dated 29-10-57 addressed to the District Labour Officer, Kozhikode by the Union.

„ W20 Copy of the letter dated 23-9-57 addressed to the District Labour Officer, Kozhikode by the Secretary of the Union.

„ W21 Copy of conciliation report No. 1506|57 dated 5-3-58 of the D. L. O., Kozhikode addressed to the Secretary, Labour Department, Trivandrum.

„ W22 Memorandum of settlement under section 12(3) of the I. D. Act, 1947 arrived at between the Workers and the Management of the Malabar Fisheries Co., Chaliyam dated 27-6-57.

„ W23 Membership Register of the Union.

Witnesses examined on behalf of the Management.

MW1 C. K. Rajaram Naidu.
MW2 M. Ramadasan.
MW3 C. P. Velayudhan.
MW4 E. G. Sadagopal.

Witnesses examined on behalf of Union.

WW1 Sri Ayyappan.
WW2 P. K. Velayudhan.
WW3 C. Arumugham.
WW4 P. Appukuttan.

Revenue (E) Department

NOTIFICATION

No. 3287/E1/59/RD. *Dated, Trivandrum. 6th February 1959.*

The following draft of an amendment to the Kerala Weights and Measures (Enforcement) Rules, 1958 which the Government of Kerala propose to make in exercise of the powers conferred by Section 43 of the Kerala Weights and Measures (Enforcement) Act, 1958 (Act 45 of 1958) is hereby published as required by sub section (4) of the said section for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration after the expiry of two weeks from the date of publication of this notification in the Gazette. Any objections or suggestions which may be received from any person with respect to the draft before the expiry of the period specified above will be considered by the Government.

DRAFT AMENDMENT.

In the said Rules, in Schedule V, after Part V, the following shall be inserted as Part VI, namely:—

PART VI

DRY MEASURES OF CAPACITY.

I. *General*—This part deals with the dry measures of capacity which are cylindrical measuring vessels used for measuring out grains and grams like paddy, wheat etc., and their capacity is the struck volume.

II. *Denomination*—The denominations, diameter and depth of all dry measures of capacity and the thickness of material to be used in their construction shall be as in table 15 (A).

Table 15 (A)

Sl. No.	*Denominations.*	*Internal depth in cms.*	*Internal diametre in cms.*	*Thickness of material.*
1	10 litres	30.00	20.65	16 S. W. G.
2	5 ,,	25.00	15.97	16 ,,
3	2 ,,	17 50	12.00	18 ,,
4	1 ,,	15.00	9.20	18 ,,
5	500 ml.	10.00	7.98	20 ,,
6	200 ,,	7.50	5·83	20 ,,
7	100 ,,	6.00	4.60	20 ,,

III. *Shapes and dimensions*—The columns 3 and 4 of the table 15(A) give the internal depth and diametre of the dry measures corresponding to the respective denominations. The shape and dimensions shall be as in figures 17 to 23.

Design of 10 litre Dry Measure.
Scale ¼ Size.

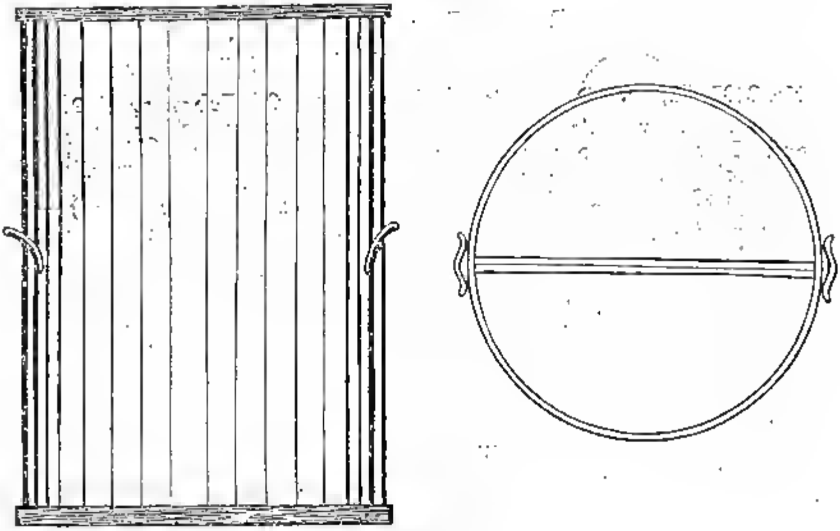


FIGURE 17

Design of 5 litre Dry Measure.
Scale ¼ size.

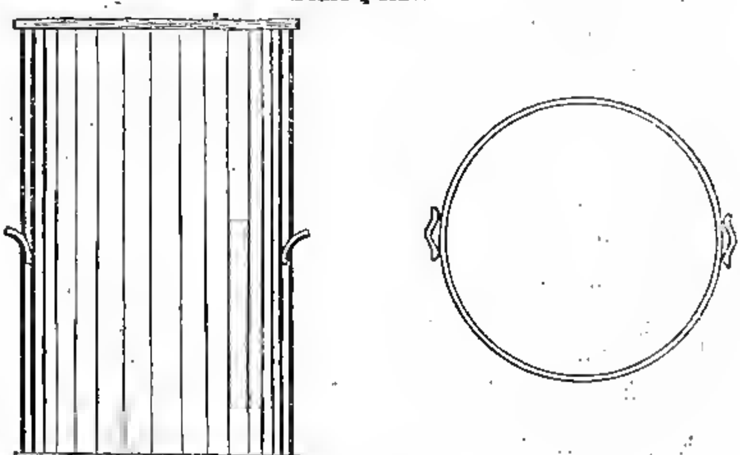


FIGURE 18

Design of 2 litre Dry Measure.

Scale ¼ size.

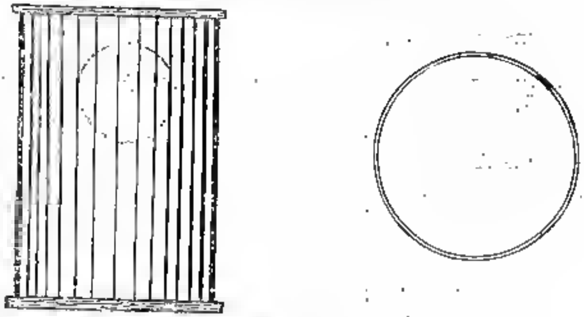


FIGURE 19

Design of 1 litre Dry Measure.

Scale ¼ size.

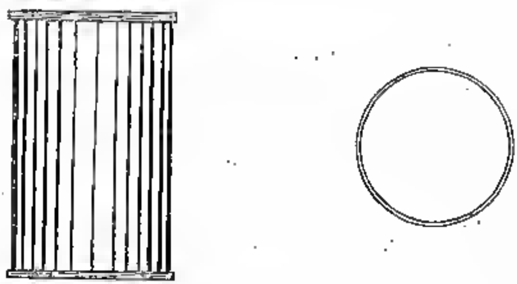


FIGURE 20

Design of 500 milli litre Dry Measure.

Scale ¼ size.



FIGURE 21

Design of 200 milli litre Dry Measure.

Scale ¼ size.



FIGURE 22

Design of 100 milli litre Dry Measure.

Scale ¼ size.



FIGURE 23

IV. *Materials*—The body of the cylindrical measures shall be pressed from aluminium alloy sheets, brass sheets or stainless steel sheets. Mild steel can also be used. The minimum thickness of the sheets shall be as specified in column (5) of table 15 (A). The aluminium alloy sheets and brass sheets may preferably conform to NS. 3 of IS. 737—1955 and Grade 4 of IS. 410—1953 respectively.

V. *Handles*—Only the 10 litre and 5 litre sizes require handles; two numbers on diametrically opposite sides of the measures. The handles shall be of ¼" (6.35 mm) size for both the types.

VI. *Stiffening*—There shall be two reinforcement bands one at top and one at bottom of all the dry measures. In the case of the 10 litre and 5 litre sizes the bottoms also shall be suitably reinforced. The 10 litre size shall have a stiffener across the upper rim of size 12.5 mm. x 5 mm. the larger dimension being in the vertical plane of the diametre.

VII. *Manufacture and finish*—(a) The handles shall be of robust construction and shall be securely fixed to the body by means of riveting, soldering or brazing.

(b) The measures shall be free from any surface defects and indentation and shall be smoothly finished at the top.

(c) The striking bar shall be 3/8" (9.5 mm) round of suitable length, the material being either mild steel or stainless steel.

(d) Lead plug or stud shall be provided *near the brim in a vertical line with the denomination*, to receive the Inspector's seal.

(e) The finished measures shall have adequate robustness for durability.

VIII. *Permissible errors*—

Sl. No.	*Denomination.*	*Verification errors n excess only milli litres.*	*Inspection* *Errors in excess millil itres.*	*Errors in deficiency milli litres.*
1	10 l	100	100	50
2	5 l	50	50	25
3	2 l	30	30	15
4	1 l	20	20	10
5	500 ml	15	15	7·5
6	200 ml	8	8	4
7	100 ml	5	5	2·5

IX. *Marking*—(a) The dry measures shall have the denominations and manufacturer's name or trade mark indelibly embossed or stamped on it. Letters indicating denominations on the measures shall be twice the size of the letters indicating manufacturer's name or trade mark.

(b) The denomination shall consist of Indo Arabic numerals and the abbreviation 'l' and 'ലി', to indicate litre and 'ml' or 'മിലി' to indicate milli litre.

By order of the Governor
K. K. RAMANKUTTY,
Secretary.

G. 870.

Kerala Gazette No. 10 dated 10th March 1959.
PART I

GOVERNMENT OF KERALA

Labour and Local Administration Department (Panchayat)

NOTIFICATION

No. LA8. 72040|58-1|L&LAD.

Dated, Trivandrum, 25th February 1959.

S.R.O. No. 659:—The following bye-laws passed by the Trippilazhikam Panchayat under Section 12 of the Travancore-Cochin Local Authorities Entertainments Tax Act, 1951, (Act VI of 1951) which have been approved by Government under sub section (3) of the said Section are hereby published for general information.

BYE-LAWS.

1. In these bye-laws, 'Act' means the Travancore-Cochin Local Authorities Entertainment Tax Act (Act VI of 1951).

2. These bye-laws shall come into force immediately after their publication in the Government Gazette.

3. The Local Authorities Entertainment Tax Rules, 1951 issued by the Government under Section 11 of the Act shall be strictly followed.

4. The Trippilazhikam Panchayat shall levy entertainment tax at the rate of 12½% under Section 3 of the Act on all payments for admission to every entertainment held within panchayat area unless exempted specially from payment of tax under Section 7 (i) & (3) of the Act. The tax due for an entertainment shall be paid into the panchayat office before 12 Noon on the next working day.

5. (a) Notwithstanding anything contained in the bye-laws No. 4 above, the panchayat may compound the tax payable in respect of any entertainment, for a consolidated payment under Section 4 of the Act.

Provided the consolidated payment shall be paid in such instalments as may be decided by the panchayat.

(b) Ordinarily the tax may be compounded for a period of three months at a time for amounts which shall not be less than 75% of the probable estimate of tax payable under Section 3 of the Act.

(c) Any Proprietor of an Entertainment the tax in respect of which is compounded under these bye-laws, shall furnish to the panchayat either a weekly or a monthly return as decided by the panchayat showing (separately for each class of payments) the gross sum received by him on account of payments for admission to the entertainment.

6. The Proprietor of an entertainment or series of entertainments shall, not less than three days before the commencement of the entertainment or the first of a series of entertainments apply to the panchayat for permission to hold the entertainment or entertainments as the case may be, with full particulars such as:—

1. name and address of the Proprietor;
2. the place, time and duration of the entertainment;
3. classes of accommodation and the rates of payment for admission; and
4. the manner in which admissions will be regulated and checked and other details as may be called for by the panchayat.

Provided the application for permission to hold an entertainment shall be liable to be summarily rejected, if the particulars required by this bye-law are not duly and properly furnished. The panchayat may grant permission in other cases, subject to such conditions and restrictions as the panchayat may think necessary.

7. Every permission granted under the above bye-law 6 shall specify the period for which and the restrictions, subject to which and conditions subject to which the permission is granted and shall be signed by the Executive Authority.

8. (a) The Proprietor of an entertainment shall in the case of entertainment for which admission will be by tickets, produce all tickets for admission before the Executive Authority, not less than 24 hours before the commencement of the entertainment along with a statement showing the numbers of tickets under the different classes, the rate of payment for admission in each class and the particulars of complementary tickets or free passes proposed to be issued.

(b) The complementary tickets or free passes shall not exceed 5% of the seating capacity of the respective classes.

9. (a) The Executive Authority shall return the tickets duly sealed or stamped and shall make arrangements for the collection and remittance of the tax. All directions which the Executive Authority may issue in this behalf shall be followed and complied with by the Proprietors of the Entertainment.

(b) In case separate stamps or labels denoting tax are decided to be issued, the Executive Authority shall arrange for selling the stamps or labels to the Proprietor on payment of the full price thereof, in any case tickets not bearing the panchayat seals or stamps or label shall not be issued for admission to any entertainment by its Proprietor.

10. The Proprietor shall furnish cash security as may be decided by the panchayat to ensure the due and prompt payment of the tax and the security so furnished shall be refunded to him on remittance of the tax in full or adjusted towards the final payment of the tax if he so chooses.

11. No Proprietor shall, when once the tax has been compounded under Section 4 of the Act alter the rate of admission to the different classes of seats and such other particulars previously furnished to the Executive Authority without the previous sanction of the panchayat.

12. No entertainment shall be held between 2 a. m. and 6 a. m. without the previous sanction of the panchayat.

13. (a) The Proprietor shall make necessary arrangements for keeping or producing on demand counterfoils of tickets and other document as directed by the Executive Authority.

(b) The Proprietor shall keep a register of payments for admission, the tax collected, remitted, in the form prescribed for the purpose, if so required, by the Executive Authority.

14. The Executive Authority or any person authorised by the Panchayat shall enter any place of entertainment, when the entertainment is proceeding and in any place ordinarily used as a place of entertainment at any resasonable time to check the tickets for admission or the accounts thereof, and see whether the provisions of the Act, Rules or bye-laws are strictly followed.

15. Breach of any of the above bye-laws shall be punishable with fine which may extend to Rs. 50 (fifty) and in case of continuing breach with fine which may extend to Rs. 15 (fifteen) for every day during which the breach continues after conviction for the first breach.

By order of the Governor,

P. I. JACOB,
Secretary.

Kerala Gazette No. 10 dated 10th March 1959.
PART I

GOVERNMENT OF KERALA

Labour and Local Administration Department (Panchayat)

NOTIFICATION

No. LA.8-72040|58-3|L&LAD.

Dated, Trivandrum, 25th February 1959.

S.R.O. No. 7|59:—The following bye-laws passed by the Panchayats mentioned in the schedule below, under Section 12 of the Travancore-Cochin Local Authorities Entertainments Tax Act 1951 (Act VI of 1951) which have been approved by Government under sub-section (3) of the said Section are hereby published for general information.

SCHEDULE

(1) Ezhucone, (2) Eriyad, (3) Mala.

BYE-LAWS

1. In these bye-laws, 'Act' means the Travancore-Cochin Local Authorities Entertainment Tax Act (Act VI of 1951).

2. These bye-laws shall come into force immediately after their publication in the Government Gazette.

3. The Local Authorities Entertainment Tax Rules, 1951 issued by Government under Section 11 of the Act shall be strictly followed.

4. The   panchayat shall levy entertaintment tax at the rate of 10% under Section 3 of the Act on all payments for admission to every entertainment held within panchayat area unless exempted specially from payment of tax under Section 7 (i) & (3) of the Act. The tax due for an entertainment shall be paid into the panchayat office before 12 Noon on the next working day.

5. (a) Notwithstanding anything contained in the bye-laws No. 4 above, the panchayat may compound the tax payable in respect of any entertainment, for a consolidated payment under Section 4 of the Act.

Provided the consolidated payment shall be paid in such instalments as may be decided by the Panchayat.

(b) Ordinarily the tax may be compounded for a period of three months at a time for amounts which shall not be less than 75% of the probable estimate of tax payable under Section 3 of the Act.

(c) Any Proprietor of an Entertainment the tax in respect of which is compounded as said above, shall furnish to the panchayat either a weekly or a monthly return as decided by the panchayat showing (separately for each class of payments) the gross sum received by him on account of payments for admission to the entertainment.

6. The Proprietor of an entertainment or series of entertainments shall, not less than three days before the commencement of the entertainment or the first of a series of entertainments apply to the panchayat for permission to hold the entertainment or entertainments as the case may be, with full particulars such as:—

1. name and address of the Proprietor;
2. the place, time and duration of the entertainment;
3. classes of accommodation and the rates of payment for admission; and
4. the manner in which admissions will be regulated and checked and other details as may be called for by the panchayat.

Provided the application for permission to hold an entertainment shall be liable to be summarily rejected, if the particulars required by this bye-law are not duly and properly furnished. The panchayat may grant permission in other cases, subject to such conditions and restrictions as the panchayat may think necessary.

7. Every permission granted under the above bye-law shall specify the period for which and the restrictions, subject to which and conditions subject to which the permission is granted and shall be signed by the Executive Authority.

8. (a) The Proprietor of an entertainmnet shall in the case of entertainment for which admission will be by tickets, produce all tickets for admission before the Executive Authority, not less than 24 hours before the commencement of the entertainment along with a statement showing the numbers of tickets under the different classes, the rate of payment for admission in each class and the particulars of complementary tickets or free passes proposed to be issued.

(b) The complementary tickets or free passes shall not exceed 5% of the seating capacity of the respective classes.

9. (a) The Executive Authority shall return the tickets duly sealed or stamped and shall make arrangements for the collection and remittance of the tax. All directions which the Executive Authority may issue in this behalf shall be followed and complied with by the Proprietors of the Entertainment.

(b) In case separate stamps or labels denoting tax are decided to be issued, the Executive Authority shall arrange for selling the stamps or labels to the Proprietor on payment of the full price thereof, in any case tickets not bearing the panchayat seals or stamps or labels shall not be issued for admission to any entertainment by its Proprietor.

10. The Proprietor shall furnish cash security as may be decided by the panchayat to ensure the due and prompt payment of the tax and the security so furnished shall be refunded to him on remittance of the tax in full or adjusted towards the final payment of the tax if he so chooses.

11. No Proprietor shall, when once the tax has been compounded under Section 4 of the Act alter the rate of admission to the different classes of seats and such other particulars previously furnished to the Executive Authority without the previous sanction of the panchayat.

12. No entertainment shall be held between 2 a. m. and 6 a. m. without the previous sanction of the panchayat.

13. (a) The Proprietor shall make necessary arrangements for keeping or producing on demand counterfoils of tickets and other document as directed by the Executive Authority.

(b) The Proprietor shall keep a register, of payments for admission the tax collected, remitted, in the form prescribed for the purpose, if so required, by the Executive Authority.

14. The Executive Authority or any person authorised by the Panchayat shall enter any place of entertainment, when the entertainment is proceeding and in any place ordinarily used as a place of entertainment at any reasonable time to check the tickets for admission or the accounts thereof, and see whether the provisions of the Act, Rules or bye-laws are strictly followed.

15. Breach of any of the above bye-laws shall be punishable with fine which may extend to Rs. 50 (fifty) and in case of continuing breach with fine which may extend to Rs. 15 (fifteen) for every day during which the breach continues after conviction for the first breach.

By order of the Governor,

P. I. JACOB,
Secretary.

LAW DEPARTMENT

NOTIFICATION

No. 678|b.2|59|Law.

Dated, Trivandrum, 2nd February 1959.

The Indian Income-tax (Amendment) Ordinance, 1959 (Ordinance No. 1 of 1959), promulgated by the President and published in the Gazette of India Extraordinary, Part II, section I, dated the 17th January 1959 is hereby republished for general information.

By order of the Governor,
P. NARAYANASWAMI,
Additional Secretary.

THE INDIAN INCOME-TAX (AMENDMENT) ORDINANCE, 1959

No. I of 1959

Promulgated by the President in the Ninth Year of the Republic of India

An Ordinance further to amend the Indian Income-tax Act, 1922.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title.*—This Ordinance may be called the Indian Income-tax (Amendment) Ordinance, 1959.

2. *Act II of 1922 to be temporarily amended.*—During the period of operation of this ordinance the Indian Income-tax Act, 1922 (II of 1922) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

3. *Amendment of section 34.*—In section 34 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) A notice under clause (a) of sub-section (1) may be issued at any time notwithstanding that at the time of the notice the period of eight years specified in that sub-section before its amendment by clause (a) of section 18 of the Finance Act, 1956 (18 of 1956), had expired in respect of the year to which the notice relates.".

4. *Insertion of new section 49EE.*—After section 49E of the principal Act, the following section shall be inserted, namely:—

"49EE. *Power to set off in certain cases moneys in the possession of Government against tax found due under assessments, etc., thereafter to be made.*—(1) Where in pursuance of any settlement relating to the assessment, re-assessment or case of any person made or purported to have been made before the commencement of the Indian Income-tax (Amendment) Ordinance, 1959, whether under this Act or otherwise, any sum of money or any security for the payment of any sum of money has been paid or furnished by him, whether on his own behalf or on behalf of any other person, no claim for the refund of any sum so paid or of the return of any security so furnished shall be entertained on the ground that the settlement is invalid in any of the following cases, namely:—

(a) in any case where a notice under section 34 in respect of the income, profits or gains relating to the settlement aforesaid has been issued before the commencement of the Indian Income-tax (Amendment) Ordinance, 1959; or

(b) in any other case, for a period of two years from such commencement;

and accordingly no application, suit or other legal proceeding shall lie for the refund of any such sum of money or the return of any such security—

(i) pending the completion of the assessment, re-assessment or settlement in pursuance of the notice referred to in clause (a); or

(ii) during the period of two years referred to in clause (b); or

(iii) pending the completion of the assessment, re-assessment or settlement in pursuance of any notice under section 34 which may be issued during the period of two years referred to in clause (b).

(2) The Income-tax Officer, Appellate Assistant Commissioner or the Commissioner, as the case may be, may set off the amount referred to in sub-section (1) or the amount of the security referred to in that sub-section which may be realised for the purpose against the tax, interest, penalty or any other sum which may become payable by reason of any assessment, re-assessment or settlement made in pursuance of the notice referred to in clause (a) of that sub-section or in pursuance of any such notice which may be issued within the period of two years referred to in clause (b) of that sub-section.

(3) In computing the period of limitation prescribed for any legal proceeding in relation to any such sum or security aforesaid, the time during which any such proceeding cannot be instituted by reason of the provisions contained in sub-section (1) shall be excluded.".

5. *Saving of notices, assessments, etc., in certain cases.*—No notice issued under clause (a) of sub-section (1) of section 34 of the principal Act at any time before the commencement of this Ordinance and no assessment, re-assessment or settlement made or other proceeding taken in consequence of such notice shall be called in question by any court, tribunal or other authority merely on the ground that at the time the notice was issued or at the time the assessment or re-assessment was made, the time within which such notice should have been issued or the assessment or re-assessment should have been made under that section as in force before its amendment by clause (a) of section 18 of the Finance Act, 1956, (18 of 1956) had expired.

RAJENDRA PRASAD,

President.